App F 1A-4

Previous References

1932-31
Mdl)

Later References

PRESERVED

General and Revenue Secretariat.

Serial Nos 4

Part B for November 1933

SUBJECT

Petition from Mahaboobe wife of Hakeem Ali Peer Sab Mandi Mohalla Mysore protesting against the proposed acquisition of a bit of land belonging to her, by the Trust Bd Mysore

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To the Chairman City Improvement Trust Board, Mysore

No L 2861 dy 2 11 33

State that there is no real reason to acquire the two bits of land

2 11 33

Serial No

File No 2 of 1932

29 Petition dated 18/4/33 from Mahaboob bi wife of Hakeem ali Pen Sab residing in Doorkhana Road, Mysore invoking her protesting against the proposed acquisition of a bit of land belonging to her, by the Trust Board Mysore.

1 Kind reference is invited to page 156 Part III of this Mysore Gazette, dated 6/4/33 wherein it is seen that the property in question (item no 3 thereof), has been proposed to be acquired by the Trust Board Mysore.

Formal proposals have not been received yet

2. The petition is duly stamped and may if approved be forwarded to the Chairman Trust Board for favour of submitting a report, along with the acquisition proposals, if any, that may be submitted in the usual course & submitted for orders

83 Cor
21/4/33

5. Please put up the file relating to the Notification of 21.3.33, with a copy of the Gazette Notification

Note dated 21/3/33 was published by the mistake but under Sec 16(1) of the Notification a Translation is not available here

L 4539 / 9974/1001

File No 2 of 1932 | General and Revenue Secretariat

8 Draft calling for a report is put up
SS CS 215
1 5 33 (Ref para 7)

9 for addl
• Chief Secy)

10) Appd RS 5/7/33

11) Issue
Jones not 7310 of 10/5/33 to Chairman Trust Board 36
Impove forwards the letter for favour of report

Reminder letter dated 17/4/33 and despatched on
26/8/33 from Mahaboob Jr praying that the
acquisition of lands belonging to him proposed by
the Trust Board may not be sanctioned

Letter no 212 dated 25/8/33 from the 44
Chairman City Improvement Trust Board P U D
forwarding the report called for in the matter

11 The Chairmans report explains
the facts of the case The Chairman reports
that the objection of the petitioner was
considered by the Board and it was resolved
that there was no good reason to reconsider
the previous resolution approving the acqn
and that the acquisition proceedings
might be proceeded with

12 Submitted with reference to para 10

28-8 33 PV

Serial No

P & D

13) Paras 2 and 3 of the Chairman's letter explain the circumstances under which the Trust Bd resolved upon acquiring the lots of land in question, which have been sold to the petitioner & another

14) Some of the contentions urged by the petr in para 6 of her petition of 17.4.33 have been accepted by the Trust Board, viz, that the lands belonged to the Board before their sale & that no one else had any right thereto. It is also stated that, it has been learnt from some of the residents of the locality that the land was not being used as an Ashurkhana for several years past & that there was a public footway on it till very recently.

15) In spite of the above, the Trust Bd have resolved to acquire the land in view of the feeling prevailing among the Mohamedans of the locality. It seems doubtful if this is a proper reason for acquiring property under the Trust Board Regulation. Sections 15 and 16 of the Regulation enable the acquisition of lands for carrying out 'improvement schemes', and the notification of 21.3.33 published by the Chairman in the case mentions that the land is required for improvement purposes. In para 5 of her petition the petitioner questions the legality of the procedure adopted by the Trust Bd & the purpose of the proposed acquisition.

16) The Chairman states that the petn was considered by the Board & that they are of opinion that there is no good reason to reconsider their previous resolution & that the acquisition proceedings may be proceeded with. He should be asked in the matter

Interview on 10/11/33

18) It seems to me that there is no real reason to acquire these two bits of land. The admittedly belong to the Trust Board & have been sold to the petitioner and another person &c. And now - just because the neighbours make some clamour, it is proposed to go back on the sale & acquire the property since the land required for a public purpose, the matter would be different. But that is not the case here. It seems to me that if the Govt is not ready to give up the land willingly, the sale should stand.

RG
11/9/33

Dewan

19) (This has been seen by the Dewan)

20) Shall put up at once

RG
13/9/33

21 Please note & punish

AM 14/9

Yr Section
AM 14/9

22) The file is submitted as directed

RG
26/9/33

Chessecy)

AM 28/9

Please put up when the Municipal President happens to see me

RG
28/9/33

DEW 2 N - 222
1 - 4.44

Serial No.

S OFFICE
1624
OCT 1933

I Spoke about this to Mr B T Kesava Iyengar — He said there was no objection to move be by Banks in accordance with the views Contd in para graph 18 above —

Dewan — RB 21/10 Draft 21/10

Mr 21-10-33 RB Draft 28/10

Submitted with a draft for approval

G SECTION
OCT 193
REV SECTT

RB 24/10 AW

Issue 28/10

45 Issues vide 2861 of 2/11/33 to Chairman ready to give up the land
Pass before State if the Govt is not willing
the rule should stand

File No of 193

General Revenue Secretariat

Ml 2-32-36

GOVT OF H H THE MAHARAJA OF MYSORE

GEN & REV SECRETARIAT

OFFICIAL MEMORANDUM

No L 7310 eer, 9/5/33.

+ To be Kept returned with the reply

The accompanying Petition Registered No L4559 dated 18/4/33 received at the General and Revenue Secretariat from Mahaboob bi wife of Hakeem Ali Pir Sab residing in Sulwarkhana road, Manda mohalla, Mysore, protesting against the proposed acquisition of a bit of land belonging to her, by the Trust Board, Mysore

is forwarded ~~together~~ with ~~its enclosures~~ Compliments to the Chairman City Improvement Trust Board Mysore for favour of furnishing a report along with the acqn proposals if any that may be submitted

By Order

for Chief Secretary

BANGALORE
19..

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ಗ್ರಾಮದಲ್ಲಿರುವ

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ವಿಷಯದಲ್ಲಿ ನೀವು ಗುಜರಾಯಿಸಿಕ್ಕೊ ಡ

ವ ರ್ಕುಬಿ ನ ಅರ್ಜಿಯನ್ನ ಬಗ್ಗೆ

ರವರ ಖಳಿಗೆ ಕಳುಹಿಸಿದೆ

By Order

Secretary

Extra

7310

9th May 33

To be kindly returned with the reply

The accompanying petition registered No L 4559 dated 18th April 1933 received at the General and Revenue Secretariat from Mahaboob Bi, wife of Hakum Ali Per Sab, residing in Ashurkhana Road, Mandi Mohal Mysore, protesting against the proposed acquisition of a bit of land belonging to her, by the Trust Board Mysore, is forwarded with compliments to the Chairman City Improvement Trust Board Mysore, for favour of submitting a report along with the acquisition papers & proposals if any, that may be submitted

By Order,

Subbarao

For Chief Secretary to Government

Aga/2

ವಿಷಯದಲ್ಲಿ

ವರ್ಕ್‌ಮಿನ

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Secretary

1001
2

Mysore,
17th April 1933

GEN & REV SEC.
28 AUG 1933
L & G BRANCH

To

The General Secretary to the Government
of H H the Maharaja of Mysore,
Bangalore

The humble petition of Mahmood Bi, wife of Hakim Ali Peer Saheb, Residing in Sajad Sab Fayaji Asoorkhana Road, Mandi Mohalla, Mysore

1. In December 1931 petitioner was sold a site measuring $\frac{21 \times 27}{2}$ x 51 or 136 Sq. yds in extent by the Chairman of the Mysore City Improvement Trust Board This site lies to the north of petitioner's house The petitioner owned an ancestral house in Kamani Darwaja In consideration of petitioner agreeing to be content with the compensation which did not represent the market value the site alone referred to was sold to her, as the buying of the site and the enclosing of it by high compound walls became pre-eminently necessary to secure privacy, and safety by reason of the fact that 5 windows and one doorway faced the site

2 This site from over 60 years past was Municipal property, in as much as the Municipality constructed a water fountain on the site which was about 20 feet lower than the adjoining ground level The fountain was supplied with taps from which the general public in the locality used to take water for about two decades and more When the water supply became more copious the taps were kept on the upper surface of the fountain Remnants of the old fountain structure are still to be found on the site This it will be seen that the site was absolutely the property of the Board,

when

when the same was sold to the petitioner, and during the long continued possession of the site by the Municipality for over 60 years past, there was not even a whisper or a suggestion that the site was not Municipal property No one advanced any rumour of proprietory interest over the site in question

3 After the site was paid for and bought by the petitioner, she applied through her husband for a license to construct compound walls The required license was granted and thereafter the petitioner and her husband, whose interests in all matters is one, spent over 1000 £ [illegible] the hollow of about 20 ft in depth and over the construction of compound walls of over 6 ft in height

4. After the petitioner had the site levelled and compound walls put up, there came into being some irresponsible people, who started to advance a false and fictitious claim to the site, and began to urge that the site was public property belonging to the Moslem inhabitants in the locality and urged that the site belonged to Momka Taboot

5 The Chairman seems to have countenanced the above fictitious claim and without having consideration whatsoev to the course of action pursued by his predecessors in office went the length of placing the matter before the Board and got a Resolution passed that the site should be compulsorily acquired under the Land Acquisition Regulat so that by adopting the above course of action, petitioner might be effectively silenced and have no manner of legal right to question the necessity or otherwise for the acquisition It is within common knowledge that when a declaration is made in the official Gazette that a propert is to be acquired for a public purpose, an presumption re. the existence of the necessity for adoptin

provisions of the Land Acquisition Regulation, arises and it is not open to a private party to question the legality or validity of the acquisition proceedings, except under extraordinary circumstances and refuse to deliver up possession' The Chairman and the Board of Trustees conscious of their inconsistent attitude and anticipating refusal on the part of the petitioner to comply with their demand in the matter of handing back possession of the site selected a short cut, forgetting all the while that in their anxiety to accede to the wishes of the agitators, they are in an unjustifiable manner doing a great injustice to the petitioner and causing her and her husband considerable los

6. The Chairman, before regarding with any favour the fictitious claim of about 4 or 5 agitators, who are not on terms of cordiality with petitioner's husbandm ought in fairness, to have noted the undernoted circumstances

1) The site in question was under the control and possession of the municipality from over 60 years past

2) During the above period, not a single person or body of persons claimed the site as belonging to Komka Taboot.

3) Not a scrap of documentary evidence was produced by the agitators in support of their frivolous claim

4) The site was dintinctly described as Trust Board property when the same was sold th the petitioner

5) The Trust Board should not in fairness have resiled from their original statement but should have referred the claimants to a civil court for redress

7 Instead of adopting a course consistent with Law and equity, the Chairman seems to have sought the authority of Government for orders to acquire, and the Government seems to have sanctioned the acquisition, as is seen by the Notification in Mysore Gazette of the 6th of April 1922

6. In view of the above circumstances, petitioner prays that the orders issued for acquisition may kindly be countermanded, as no public purpose, in the strict and correct sense of the term is to be advanced or served by the said acquisition The acquisition if effected, will only result in considerable loss, inconvenience and humiliation to the petitioner and her husband, and profit people, who have not a shadow of right to the site in question.

The petitioner is a gosha lady So she entrusts the petition to the custody of her husband, for being submitted to Government

(sd) Mahamood Bi

To

The Chairman

of the Mysore City Improvement Trust Board

M y s o r e

Sir,

On 9-5-33 I was served with a notice intimating to me that an open space - bit No 6 in II Drainage area situate in block No 12 - Mandi Mohalla, sold to my wife Mahamood Bee in December 1931 would be acquired by the Board under the provisions of the land acquisition regulation for a public purpose In the first place it may be noted that the site was sold to my wife and as such, she is legally the owner of the site, though I acted as her agent in paying the sale price to your office on 16-12-31 It was my wife that applied for license while constructing a compound wall at considerable cost and it was to her that a license was granted on 15-1-32 As the result of a frivolous and false claim advanced by a few persons hostilely disposed towards me, it is learnt that on 26-4-33 it was resolved that the site should be acquired for the purpose of satisfying the demand of certain Muslims who allege that the site belongs to Doomka Daboot It is hardly necessary for me to point out that the action of the Board in the above matter is not in consonance with the provisions of the Land Acquisition Regulation and that the Board has acted "ultra " in calling to their aid the provisions of the Land Acquisition Regulation when the acquisition is clearly not for a public purpose

It cannot be overlooked that the handful of persons who now pose themselves as the champions of ' Doomka Daboo

slept over their rights if any for over 60 years and allowed the Municipality to exercise rights of ownership over the site in question during the above period Further the site was sold by the Board to my wife as the property of the Board and I fail to see any equity or consistency of action in the Board backing out of their contractual relationship The proper course that ought to have been adopted was to have required the claimants to establish their rights if any in a court of law Instead of adopting the above legitimate course, but with a view to silence my wife and to prevent her from advancing any objection for handing over possession and mainly with the object of favouring the fictitious demand of certain interested persons, the resolution of the Board seems to have been passed, without granting any opportunity either to me or to my wife to prove the falsity of the contention of persons who allege that the site in question belongs to "Woomka Naboot" No t evidence either oral or documentary was placed before the Board to incline them to the opinion that the site belonged to Woomka Naboot, is a matter not known to me, for the simple reason that I was not required to attend the Board meeting May I in all humility submit that it is certainly not the object of the Law of Acquisition, that acquisition proceedings may be instituted 'to rob Peter to pay Paul' I am constrained to submit that my wife and I refuse to be ~~harrowed~~ bound by the Resolution urging the acquisition and this is certainly not a case in which the provisions of the Land Acquisition Regulation legally be called to aid, for the simple reason that no public purpose is sought to be served by the acquisition proceedings

An appeal has been preferred against the Resolution to Government and the orders of Government

in

in the matter under reference is anxiously awaited

In the reasons above submitted, it is prayed that acquisition proceedings may kindly be dropped and the claimants may be referred to a civil court for establishing their right if any

I have the honour to be
Sir,
Your most obedient servant,

(sd) Hakim Ali Peer Saheb

Date

ml 2-32-'44

No 212

Encl one file containing 37 papers as per index

OFFICE OF THE CHAIRMAN
CITY IMPROVEMENT TRUST BOARD
MYSORE

Dated 18th August 1933

From

997

B T KESAVAIENGAR ESQUIRE B A
CHAIRMAN CITY IMPROVEMENT TRUST BOARD
MYSORE

SECTT
28 AUG 1933

To

The General Secretary
to the Government of His Highness the Maharaja of Mysore,
Bangalore

GENERAL SECRETARY
26 AUG 1933
No

Sir

With reference to your official Memorandum No L 7310/Ml 2-32-36 dated 10th May 1933 forwarding a petition received from Mahaboob Bi protesting against the proposed acquisition of her land, and requesting me to submit a report in the matter along with the acquisition proposals, I have the honor to state as follows -

1 There was a piece of land belonging to the Trust Board (Bit No 6 in Block No 12, Mandi mohalla) in front of the petitioner's house in Moom Taboot lane measuring 51'X2$\frac{1}{2}$plus 27' or 136 square yards The petitioner applied for it in the year 1925 and it was then offered to her at the prevailing rate viz 12 annas per square yard She wanted the rate to be reduced which was not complied with The offer fell through then Subsequently in the year 1930, the petitioner again applied and it was sold to her by the Trust Board on 16th December 1931 at annas six per square yard subject to the condition of her keeping it open enclosed by a compound wall She paid the full value of the land and enclosed it by a compound wall as per terms of allotment Similarly, bit No 7 which also belonged to the Trust Board and which was contiguous to the above land was sold to the petitioner's neighbour, Mr Rahimatullakhan on 12th January 1932, who also paid the value of the land and enclosed it by a compound wall

2 In the year 1932 some of the Mahomedans of Mandi Mohalla complained against the sale of the above bits of land alleging that the lands were the property of the Muslim community that there was once an Ashurkhana there, that Moharam ceremonies were being celebrated there annually and that the sale of the land to private indivicuals had wounded the feelings of the community and requested that the bits of land might be restored to them No documentary evidence was produced by them to prove their title to the land in question, although they produced certain postal communications in which the address had been noted as "Moomthaboot lane", on the basis of which they set up a claim that the land had once ~~have~~ been used for keeping a moomtabut Mahaboob Bi, in her petition dated 18th April 1933 submitted to Government alleges that they have no right to the land and this allegation seems to be true as it is seen from the Trust Board records that the lands in question belonged to the Trust Board prior to their sale to Mahaboobi and Mr Rahimat Ullakhan It is also ascertained from some of the residents of Mandi mohalla that the land was not being used as an Ashurkhana for several years past and that there was a public fountain there till very recently traces of which can even now be seen

3 However, in view of the feeling prevailing among the Mahomedans of the locality, the matter was placed before the Board at their meeting held on 26th October 1932 and the Trustees after inspecting the spot resolved that the two bits of land granted be re-acquired provided the leaders of the community paid a reasonable compensation to the purchasers of the site, such compensation being estimated by the Municipal Engineer and after deducting the amount realised by the Board by the sale of the bits, that the portion to be re-acquired shall exclude 4 feet of land adjoining the buildings belonging to Mr Allipeer(husband of Mahaboob bi) and Mr Rahimatulla and that the leaders of the community should put up a low compound wall enclosing the area and keep it clean

4 In pursuance of the said resolution steps for acquiring the bits of land in question leaving 4 feet of land adjoining the buildings were taken and all the formalities enjoined under Section 16 of the city of Mysore Improvement Regulation have been gone through In response to the Notice issued to Mahaboob Bi under the said Section, her husband Mr Hakim Alli Peer Saheb filed a petition on 18th May 1933 protesting against the acquisition This petition was also considered by the Board on 30th June 1933 and it was resolved that there was no good reason to reconsider their previous resolution approving of the acquisition and that the acquisition proceedings might be proceeded with

5 The entire records relating to the subject are herewith submitted for the information and orders of Government

I have the honour to be,

Sir,

Your most obedient servant,

Chairman

Section Genl
File No 2 32
Serial No 45

iary No of letter replied to L997 | No L2861 Encl one screen

To

The Chairman
City Improvement Trust Board
Bangalore

Sir

With reference to your letter no 212 dated 25/8/33 forwarding the report on the petition from Mahabooh bi protesting against the proposed acquisition of her land Block no 12, Mandi Mohalla I am directed to state that Govt consider that there is no real reason to acquire the land (in question) belonging to the petitioner as they admittedly belong to the Trust Board and have been sold to the petitioner

General and Revenue Secretariat
(Genl)
the *193*

ate of issue. 2-11-33

gned by. for a Secy to Govt

ıb of enclosures....

..... WRO/10 Lion

no another person, and now just because the neighbours made ~~some~~ some afterthought, it is proposed to go back on the sale and acquire the property, ~~the case would be the~~ ~~if the~~ the land was required for a public purpose, ~~the matter would be different,~~ but ~~that~~ that is not the case here ~~if~~ the lady is not ready to give up the land willingly, the sale should stand

The records received with your letter are herewith returned

Thanks

Yours faithfully
Asst Collr for Collr
23 AM

GOVERNMENT OF HIS HIGHNESS THE MYSORE

General and Revenue Secretariat

No 12861/RC 2-32-45 Bangalore Dated 30-11-33 2.11-33

From

The Chief Secretary to the Government of His Highness the Maharaja of Mysore

To

The Chairman,
City Improvement Trust Board,
MYSORE

Sir

With reference to your letter No 212 dated 25th August 1933 forwarding the report on the petition from Anhaboob bi protesting against the proposed acquisition of her land in Block No.12, Lundi Mohalla, I am directed to state that Government consider that there is no real reason to acquire the two bits of land in question They admittedly belong to the Trust Board and have been sold to the petitioner and another person; and now just because the neighbours made some agitation, it is proposed to go back on the sale and acquire the property. Were the land required for a public purpose, the matter would be different, but that is not the case here. For these reasons I am to state that if the lady is not ready to give up the land willingly, the sale should stand

The records received with your letter are her with returned

I have the honour to be,
Sir,
Your most obedient servant,

For Chief Secretary to Government.